

NORFOLK, VIRGINIA
ACTION OF THE COUNCIL
TUESDAY, JUNE 12, 2012 – 7:00 P.M.

Prayer offered by Councilwoman Angelia Williams, followed by the Pledge of Allegiance.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

CERTIFICATION OF CLOSED MEETING

A Resolution entitled, "A Resolution certifying a closed meeting of the Council of the City of Norfolk in accordance with the provisions of the Virginia Freedom of Information Act," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

CEREMONIAL MATTER

President Fraim presented a gift to Florence Womacks, the winner of the “Love Norfolk Virginia Face book Photo Contest.” The photo is entitled “Waterside at Night with Fireworks,” and can be viewed on the City’s Facebook page.

PUBLIC HEARINGS

PH-1

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to receive nominations for appointments to the **Norfolk Public School Board**.

Nominations were received as follows:

1. Daniel Montague, 4605 Krick Street, nominated himself.
2. Glenn Jones, 2501 Kennon Avenue, nominated himself.

Nominations from Council:

1. Dr. Linda McCluney
2. Edward Haywood
3. Jesse Scaccia
4. Noelle N. Gabriel, M.D.
5. Joseph Lindsey
6. Rodney Jordan.
7. Karen Fox
8. Simeon Fuller.
9. Wendy Brodsky.
10. Martha Ambler
11. Matt Paddock.

Mayor Fraim stated Dr. Linda Horsey and Suzan Kaufman do not wish to be reappointed.

ACTION: Nominations accepted and public hearing closed.

Yes: Burfoot, Riddick, Protogyrou, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-2

PUBLIC HEARING scheduled this day pursuant to action of the Council on May 22, 2012 under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance of a GEM Lot to **Kearney Stephens, et als** on property located at **121 E. Indian River Road**.

Thereupon, An Ordinance entitled, “An Ordinance authorizing the conveyance to **Kearney Stephens, Angela S. McIntosh, Kalisha Nicole McIntosh, Nicholas Stephens McIntosh and Adrienne Dione McIntosh** of a certain parcel of property, acquired by the City of Norfolk pursuant to Section 58.1-3970.1 of the Code of Virginia, 1950, as amended, and approving the terms and conditions of the conveyance agreement,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 13, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-3

PUBLIC HEARING scheduled this day pursuant to action of the Council on May 22, 2012 under the State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance of a GEM Lot to **Leavy Harold** on property located at **874 C Avenue**.

Thereupon, An Ordinance entitled, “An Ordinance authorizing the conveyance to **Leavy Harold Enterprises V, LLC** of a certain parcel of property, acquired by the City of Norfolk pursuant to Section 58.1-3970.1 of the Code of Virginia, 1950, as amended, and approving the terms and conditions of the conveyance agreement,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 13, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-4

PUBLIC HEARING scheduled this day pursuant to action of the Council on May 22, 2012, under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Edward Legum** for a change in proffered conditions on property zoned Conditional I-1 (Limited Industrial) district on property located at **2301 Tidewater Drive**.

Edward Legum, 1703 Cloncurry Road, the applicant, was present to answer questions.

Ella Smith, 1010 Wall Street, was not present to speak, but supported this matter.

Thereupon, An Ordinance entitled, "An Ordinance to rezone property located at **2301 Tidewater Drive** in order to change conditions on property zoned Conditional I-1 (Limited Industrial) District," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

PH-5

PUBLIC HEARING scheduled this day pursuant to action of the Council on May 22, 2012, under the State law, public notice having been inserted in the local press by the City Clerk, on the application of **Norfolk Redevelopment and Housing Authority** for a change of zoning from R-11 (Moderate Density Multiple-Family) and OSP (Open Space Preservation) district to Conditional R-13 (Moderately High Density Multiple-Family) district on property located at **3101-3321 Kimball Terrace**.

Steve Morales, NRHA, 201 Granby Street, was present to answer questions.

An Ordinance to rezone property located at **3101 to 3321 Kimball Terrace** from R-11 (Multiple-Family Residential) District and OSP (Open Space Preservation) District to Conditional R-13 (Multiple-Family Residential) District," was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Smigiel, Whibley, Williams, Winn, and Fraim.

No. Riddick.

PH-6

PUBLIC HEARING scheduled this day pursuant to action of the Council on May 22, 2012, under the State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City Planning Commission**, to amend Chapter 25 of the **Zoning Ordinance of the City of Norfolk, 1992**, to modify provisions governing Adult Use Establishments abutting a residential zoning district.

Stephanie Gilbert, 4110 Colley Avenue, was present to answer questions.

Thereupon, An Ordinance entitled, “An Ordinance to amend and reordain Section 25-10.1 of the Zoning Ordinance of the City of Norfolk, 1992, **SO AS TO** limit the application of locational criteria for **Eating and Drinking Establishments and Entertainment Establishments** to properties improved with One-Family Residential Dwellings,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

CONSENT AGENDA

C-1

Letter from the City Manager recommending a public hearing be held authorizing the conveyance of two parcels of City owned property located at **1101 Warrington Avenue** to the **Virginia Department of Transportation**.

ACTION: City Clerk authorized to advertise for a public hearing on June 26, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

C-2

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of **Nick's Diner** to **a)** amend the **General Plan of Norfolk, 1992**, to change land use designation from **Medium Density Residential** to **Commercial/Office** district, **b)** to amend the **Zoning Ordinance** from **R-12 (Medium Density Multiple-Family)** district and **BFRPO (Bay Front Residential Parking Overlay)** district to **Conditional C-2 (Corridor Commercial)** district and **c)** for a **Special Exception** to operate an eating and drinking establishment on property located at **1006 East Ocean View Avenue**.

ACTION: City Clerk authorized to advertise for a public hearing on July 10, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

REGULAR AGENDA

R-1

Matter of a letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of an automobile repair facility on property located at **931 and 933 Pecan Point Road**," was introduced in writing and read by its title.

(PASSED BY AT THE MEETING OF MAY 22, 2012)

Angelo Manuel, 805 Atlantic Avenue, 3B, Virginia Beach, Virginia, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-2

Matter of a letter from the City Manager and an Ordinance entitled, “An Ordinance to repeal four subsections of Section 25-653, and to amend and reordain **Sections 25-649 and 654**, of the Norfolk City Code, 1979, **SO AS TO** add one new right turn on red prohibition, and ten new stop intersections,” was introduced in writing and read by its title.

(PASSED BY AT THE MEETING OF MAY 22, 2012)

Ellis W. James, 2021 Kenlake Place, thanked Council and the City Manager along with staff for the quick response.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-3

Letter from the City Manager and an **Ordinance entitled, “An Ordinance accepting \$45,632.00** in grant funds from the **Virginia Department of Criminal Justice Services** for the **Juvenile Accountability Block Grant Program** and appropriating and authorizing the expenditure of the grant funds and **\$5,070** in local cash matching funds for the program for total program funding in the amount of **\$50,702.00**,”

was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance contributing a sum up to **\$9,000.00** to **Riverview Village Business Association** for the purchase of two sets of decorative banners, appurtenances, and installation costs; granting permission to the association to encroach into the **Granby Street** right-of-way between the **Granby Street Bridge** and **38th Street**, and approving the terms and conditions of the **Encroachment Agreement**,” was introduced in writing and read by its title.

Bill Nusbaum, 999 Waterside Drive, Ste 1700, was present to answer questions

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-5

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting and appropriating **\$8,000** in grant funds if and when received from the **E.C. Wareheim Foundation** and authorizing the City Manager to employ one person in the position identified below on an intermittent part-time basis for so long as the grant funds will allow,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-6

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain **Section 25-286.1** of the **Norfolk City Code, 1979**, **SO AS TO** revise the application process, clarify decal issuance procedures and include issuance of decals to in-home caregivers in the parking permit districts,” was introduced in writing and read by its title.

ACTION: WITHDRAWN.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-7

Letter from the City Manager an Ordinance entitled, “An Ordinance permitting **Marta** and **Don Joiner** to encroach 3.8’ into a **City of Norfolk** drainage easement west of **249 Huntsman Road** with a portion of a pier,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-8

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the release to **Anne C. B. Wentz** or her successors or assigns, of that variable width drainage and utility easement extending along the southeast corner of **Lot A, Subdivision of Lots 15-19, Block 3, Lochhaven** as shown on the plat entitled ‘**Subdivision of Lots 15-19, Block 3, Lochhaven**, property of **American Boulevard Corp.** and property shown on physical survey of part of Lot 1, the **Lochhaven Corp.** & part of Lot 5, Lochhaven and part of **St. Francis Lane (Closed)**’, at **7445 North Shore Drive**, and authorizing the City Manager to execute a deed of release,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-9

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting a **\$4,000.00 Dollarwise Summer Youth Campaign Grant Award** from **United States Conference of Mayors** for the City of **Norfolk’s 2012 Norfolk Emerging Leaders Program**, appropriating and authorizing the expenditure of the funds and authorizing the expenditure of a **\$4,000.00** local cash match for the program,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-10

Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off-premises consumption on property located at **2475 East Little Creek Road,**” was introduced in writing and read by its title.

Joseph Myers, 1052 Brandon Avenue, the attorney, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-10A

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of a gas station (sales only) on property located at **2475 East Little Creek Road,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-11

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to operate an automobile storage facility on property located at **312 to 320 East 18th Street,**” was introduced in writing and read by its title.

Robyn Thomas, 913 West 21st Street, Ste 3, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-12

Letter from the City Manager and an Ordinance entitled, “An Ordinance repealing **Sections 2-523 through 2-529** of the **Norfolk City Code** concerning the **Norfolk Community Services Board** and amending and reordaining **Chapter 2.1** of the **Code SO AS TO** add a new section and article concerning **General City Employment** and the **Norfolk Community Services Board,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 1, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-13

Letter from the City Manager and an Ordinance entitled, “An Ordinance repealing all prior Ordinances concerning a special grievance procedure for some employees of the **Norfolk Community Services Board** and determining their eligibility to use the **City** grievance procedures,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 1, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-14

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain the **Norfolk City Code, 1979**, as amended, to add one new subsection (g) to **Section 37-74 SO AS TO** provide that **Norfolk Community Services Board** employees who are **Norfolk Community Services Board** employees on **June 30, 2012** and who become city employees on **July 1, 2012** shall have their prior service with **Norfolk Community Services Board** counted toward the five (5) year retirement system vesting requirement under **Norfolk City Code Section 37-74** (c) without this service being deemed creditable service in the city’s retirement system,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-15

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain the Norfolk City Code, 1979, as amended, to add one new subsection (j) to **Section 37-103.1 SO AS TO** exempt **Norfolk Community Services Board** employees who were **Norfolk Community Services Board** employees on **June 30, 2012** and who become city employees on **July 1, 2012** from the members’ mandatory contributions to the retirement system required by city code **Section 37-103.1 (a),**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-16

Letter from the City Manager and an Ordinance entitled, “An Ordinance consenting to the assignment and assumption of some of the contractual obligations of the **Norfolk Community Services Board** and accepting ownership of its personal property,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-17

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain **Section 2 of Ordinance No. 44,244 SO AS TO** appropriate and authorize the expenditure of funds in the additional amount of **\$800,000.00** from increased participation and reimbursements for the **Child Nutrition Services Program for Norfolk Public Schools,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-18

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to operate an entertainment establishment on property located at **241 Granby Street,**” was introduced in writing and read by its title.

(THE ATTORNEY FOR THE APPLICANT REQUESTED THIS MATTER BE WITHDRAWN.)

ACTION: WITHDRAWN.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-19

A Resolution entitled, “A Resolution reappointing a member and an alternate to the **Transportation District Commission of Hampton Roads,**” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective June 12, 2012.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

NEW BUSINESS

1. Paul Pruden, 3572 Westminster Avenue, commented on an article that appeared in the Virginia Pilot concerning Commissioner of Revenue, Sharon McDonald and Sheriff Bob McCabe.
2. Bertha Spence, 813 Park Avenue and Keith Spence, 208 West 36th Street, spoke concerning taxes they owe on their properties.
3. Danny Lee Ginn, 3844 Dare Circle, spoke regarding good government.
4. Dan Montague, 4605 Krick Street, commented on the selection of contractors that the City hires to do city projects.